# Draft Illegal Logging Prohibition Rules webinar transcript

(Duration 59 mins 20 secs)

29 August 2024

## Introduction

This is the transcript of a webinar on the draft Illegal Logging Prohibition Rules, presented by the Department of Agriculture, Fisheries and Forestry on 29 August 2024. Over 100 participants attended to hear the department explain the draft rules and consultation process, and wider illegal logging legislative reforms. Attendees included Australian importers and processors of regulated timber and timber products, consultants, customers brokers, and representatives from research institutions, environmental non-government organisations, and government agencies.

## Transcript

[Webinar begins]

**Carlin Watt**: Hi and welcome to the department’s webinar on the draft illegal logging prohibition rules.

My name is Carlin Watt and I'm a senior policy officer in the International Forest Policy section of the Department of Agriculture, Fisheries and Forestry, and I'll be facilitating today's webinar.

Joining me to assist in presenting and answering questions also from the International Forest Policy Section is director Keiran Andrusko and assistant directors Dr Madeleine Osborn and Cassandra Price.

I'm joining you today on the lands of the Ngunnawal people. I acknowledge the traditional custodians of Australia and their continuing connection to land, sea environment, water and country. I pay my respects to the traditional custodians, their culture and elders, both past and present.

In today's webinar, we'll start with a brief recap of the reform process to date, including the Bill currently in Parliament and address some of the key concerns raised in relation to this.

We'll then shift the focus towards the subject of today's webinar, which is the draft illegal logging, prohibition rules 2024, or simply the rules as we'll be referring to them as today.

We'll then dive into a detailed review of the key changes to the due diligence requirements and other features.

And finally, we'll explain the next steps of the consultation process.

The presentation is expected to run for 30 minutes, and we'll use the remaining time to answer questions.

We encourage you to participate by posting questions using the Q&A function. Questions can be posted at any time and will be answered after the presentation.

We'll take a note of all questions, but prioritise answering those with common themes or wider interests from the group.

The focus of this webinar is the draft rules. We therefore won't delve into matters concerning the current laws and compliance. Those questions are better directed to our compliance colleagues, and we'll be sure to share the departmental contact details as an announcement for your future reference.

If you experience any technical difficulties throughout the webinar, you can also use the Q&A function to reach out to our tech producer for support.

This webinar is being recorded and the recording will be uploaded to the department's website as a resource for stakeholders.

I will now hand over to Keiran Andrusko, director of the International Forest Policy section, to commence the presentation segment of today's webinar. Thank you, Keiran.

**[Slide two]**

**Keiran Andrusko:** Thank you, Carlin, and welcome all. It's great to see so many people online today.

As you can see on this slide, myself and Madeleine will be running through both the rules and the broader context, with the illegal logging Bill currently before Parliament to ensure everyone has a full understanding of the process and legislation and reforms before getting into the Q&A, there's a fair bit to take in, so we'll try and move through these slowly.

**[Slide 3: Background]**

**Keiran Andrusko:** So I'll start with outlining the reviews of the laws to date. To paint a picture of how we've arrived at reforms in the current Bill before Parliament and in the accompanying rules.

The illegal logging Prohibition Act and the associated regulation commenced in 2012 with the due diligence requirements coming into effect in November 2014.

Quite soon after this, KPMG conducted an independent review of the laws which focused on the impact on small businesses. This had extensive public consultation with about 50 submissions all up.

A key outcome of this review was introducing deemed to comply arrangements for certified products. Essentially with this, if you have a certified product, you could import or process it without needing to undertake due diligence. These changes were disallowed by the Australian Senate and never came into effect and this was due to concerns they would weaken the effectiveness of the laws at preventing illegally logged timber from entering the market.

Then, in 2018, the department conducted a statutory review of the illegal logging laws, examining the first five years of their operation.

The review didn't feature any public consultation, but it did highlight potential options for improving the Act, and the Minister at the time then decided to take the options to reform the Act to consultation through the 2021/22 sunsetting review.

**[Slide 4: Sunsetting review]**

**Keiran Andrusko:** So in Australia, all subordinate or supporting legislation ‘sunsets’ or ceases to have effect after 10 years unless it is reviewed to ensure that it remains effective and is remade. The illegal logging regulation was originally due to sunset in April 2023 and this was extended by two years to 2025 April to allow more time for the review and reform process that we're currently undertaking.

Across 2021/22, the department undertook a comprehensive sunsetting review of both the act and the regulation to assess whether the laws continue to be fit for purpose and seek feedback on some potential improvements to them.

This included public consultation on a range of potential options, reforming the laws to strengthen them, streamline regulation and reduce compliance costs.

There was strong participation in the consultations across stakeholder groups, which included industry, environmental NGO's, timber importers, processes and customs brokers, as well as other governments. We received 47 written submissions in all, indicating broad support for the reforms that were subsequently pursued, and a couple parked for further consultation later.

We then assessed the regulatory impacts of the various options, including leaving the laws as they are, or remaking them and recommended reforming the laws to the then Minister, which he agreed to in December 2022 through a regulation impact statement or RIS, which was published online.

And it's the illegal in Prohibition Amendment (Strengthening measures to prevent illegal timber trade) Bill 2024, which seeks to implement most of these reforms that were set out in the RIS. The remaining reforms, particularly those focused on due diligence on the obligations, will be implemented through the rules.

So the Bill was introduced to Parliament in March this year and is currently before the Senate.

We've recently drafted the accompanying rules, which will replace the illegal logging regulation sometime after the Bill passes Parliament and before that sunsetting date of 1st of April 2025. We expect this to occur either later this year or early next year.

**[Slide 5: Legislative reforms]**

**Keiran Andrusko:** So before detailing what's in the rules, I'll quickly run through the proposed changes to the Act currently before Parliament and address key concerns that were recently raised, as well as providing an understanding of how it interacts with the draft rules.

Essentially, the Act sits above the rules and sets out the powers for government to use and the offences, among other things. It's then the rules that sit below these and outline further matters requirements to operationalise these.

I'll just quickly recap the key changes proposed to the Act before addressing the concerns raised on the next slide.

So these are permitting government officials to use timber ID technologies to sample and test products to verify claims of timber species and harvest locations either at the border or under warrant after goods had entered supply chains, or as part of compliance processes, including audits.

Allowing the department to address non-compliance in more flexible ways was the second key reform, including injunctions, enforceable undertakings and more flexible tiered offences.

Adding the ability for the government to publish information such as anonymous timber testing results and details of serious contraventions of the laws on the department's website.

And there's also the power to assist with performing more efficient and effective compliance audits that's been introduced.

And finally, since the legislation came into effect, there's been changes to how government policy that require certain offences to sit in Acts, rather than in the legislation below them, so several offences previously in the Regulation would be moved into the Act.

**[Slide 6: Feedback on the Bill]**

**Keiran Andrusko:** The Rural and Regional Affairs and Transport Legislation committee of the Senate undertook an inquiry into the Bill in May and June this year, which is the standard parliamentary practice. The inquiry invited public submissions and received 37 responses from stakeholders.

From the responses, there were clear concerns raised about several of the proposed reforms, which I'll go through now to help clarify and understand these matters, as they're relevant to the rules.

Firstly, there was concern raised on adding strict liability offences to the laws.

Strict liability offences, along with publication powers, are increasingly common across Australian legislation, including an environmental legislation as they broaden the regulatory options.

As several offences in the illegal logging laws concern whether or not there's been a breach of legislation in another jurisdiction overseas, it's particularly challenging to prosecute offences and we've never actually prosecuted anyone for importing or processing illegally or timber under the laws to date. So including strict liability offences would help with addressing this challenge.

Further, the defence of honest and reasonable mistake of fact, as set out in the Criminal Code is available in relation to strict liability offences. So in other words, you're not absolutely liable, if you did import illegally logged timber and can prove an honest and reasonable mistake of fact, for example, you'd undertaken all your due diligence requirements and reasonably assured yourself something wasn't illegally logged, and it later transpired that it was, you are able to use this defence, but the onus will be on you to provide that evidence.

Secondly, there were concerns over the inclusion of publication powers and the commercial implications.

So on this I can clarify that the intention is not to regularly use these powers to the detriment of those amongst our regulated community. We mostly see these as useful for sharing information with our regulated entities learnt through Compliance activities that’s useful to them to help with their due diligence efforts, such as findings of frequently misrepresented products.

Publication powers could be used to publicise serious cases of non-compliance, which is not uncommon across Australian legislation, though this is something very much we hope to avoid and we much prefer to be able to cooperate to address instances compliance in most instances.

Thirdly there was concern over the operation of timber testing, particularly that regulated entities would have to pay to conduct this themselves.

This is absolutely not the case. The timber testing powers will be available to government officials to utilise as part of this their compliance activities. There is no requirement placed on entities to test timber themselves.

Due diligence efforts will remain the crux of expectations placed on importers and processors. The department has extensively trialled timber testing recently and sees the results that can be obtained as valuable to help those trading in timber to understand their products that are and aren’t correctly identified, and we intend to use these powers cooperatively to help inform traders where possible.

Finally, there's been some questions over the application of the laws to domestic timber processors, as well as on the requirement to give notice to the Department of importing or processing timber.

I can clarify here that there have been due diligence requirements on domestic timber processors since 2014 when those provisions commenced.

No changes to this at all have been proposed and we note that maintaining coverage of both imports and locally grown timber helps with meeting out international trade law obligations, as well as ensuring that we have clear pathways to access other markets and aren't faced with further government regulation.

My colleague will talk more about the notice requirement that applies to both importers and processors in a moment, but I stress that the Bill provides flexibility around how this can operate, and we fully intend to work with our regulated entities on implementing this once the supporting IT, and other systems are available.

This particular reform looks to implement a similar approach to that used in the United States under their Lacey Act.

Some of the issues are also clarified in the department's submission to that Senate Inquiry on the Bill, which can be accessed online, and we will be updating the explanatory materials for the Bill to be clear on these matters. We're sympathetic that reading through and comprehending laws isn't everyone's cup of tea, particularly complex legislation like this, which is why we we’re keen to run this webinar and Q&A today.

So before getting to that, I'll move on to talking you through the content of the rules. Together with my colleague Madeleine Osborn.

**[Slide 7: Illegal Logging Prohibition rules]**

**Keiran Andrusko:** The Bill sets out a legislative framework for the illegal logging laws. However, the details of the due diligence obligations are set out in the subordinate legislation below that. Currently that is the illegal logging prohibition regulation which we're proposing to remake as rules.

The exact timing for when the regulation will cease, and the rules will come into effect is not yet determined. It will be contingent on when the Bill passes Parliament. However, we anticipate a transition period sometime before April 2025 and we will provide, via our usual channels, updates including our website and the illegal logging updates that are sent out.

The regulation is being remade as rules to allow for more flexibility. For example, it would be quicker to update the lists of relevant Country and State Specific Guidelines and ensure that the rules reflect the most up-to-date documents.

The rules aim to find a balance between streamlining due diligence to reduce the regulatory burden on industry whilst maintaining the effectiveness of the laws and helping identify and prevent illegally logged timber from entering our market.

The rules will be tabled in Parliament and are also disallowable, meaning that a majority vote in either House of Parliament within a set period can prevent them from entering into force.

**[Slide 8: Key changes]**

**Keiran Andrusko**: So just quickly on this slide, you can see an outline of the key changes from the current regulation to the draft rules. We will now be going through each of these in detail.

**[Slide 9: Due diligence requirements]**

**Keiran Andrusko:** The due diligence obligations in the regulation are largely retained in the draft rules.

The intent is to retain the key core five step process for due diligence that was set out in regulation, but simplify some certain aspects of the process.

Our website includes guidance for importers and processes to assist with this due diligence process, including toolkits and links to third party resources. Much of this information will remain relevant and we will be updating guidance to align with the new requirements once they come into effect.

So there are five key steps.

Firstly, is establishing a due diligence system prior to import or processing for the first time, which includes the business's contact details and their high-level approach to undertaking to diligence essentially the plan for the process.

The second step each time you go to process or import under the current laws is to gather information on the timber or timber product and supplier.

Next step is to assess that information and arrive at a risk rating for whether the product was illegally logged.

If necessary, the next step is to then mitigate that risk through actions that are adequately proportionate to it.

And then finally, the final step is keeping records for a number of years after afterwards. So if you are audited, you provide those.

The draft rules retain the exemptions to needing to complete due diligence that are currently set out in the regulation.

So the first one is that is for products that are made from or include recycled timber, these are exempt, as well as products of a consignment where the customs value together is less than $1000.

The rules also introduce a new exemption for processors. There’s no requirement to conduct due diligence when the same entity is harvesting and processing a log. Without this exemption, entities would be required to essentially undertake due diligence on themselves, which would be entirely ridiculous.

So I'll hand over to Madeleine to go through these matters in more detail. And there'll be time to unpick these in the Q and A session. Thank you

**[Slide 10: Simplified information gathering]**

**Madeleine Osborn:** Thank you very much, Keiran.

So I'm going to take a closer look at the three due diligence steps that have changed in the draft rules, those are information gathering, risk assessment, risk mitigation and as well as some of the other features of the draft rules.

OK. So strap yourselves in for a fair bit of detail here. I'll start with the information gathering step.

As set out in the current regulation, the rules will require importers and processes to collect certain information about the product or raw log as part of the due diligence process.

And as per the existing rules, they will only need to gather as much of the listed information as is reasonably practicable to obtain.

The information listed in the draft rules relates to the product or timber itself. Specifically, -

* A description of the product, including the product type and the common and scientific name of the genus or species.
* The country or area of harvest.
* The country in which the product was processed or manufactured, for importers only.
* The name, address, trading name and business and details of the supplier.
* If applicable, a copy of the relevant chain of custody or forest management certificate.
* The quantity of the shipment or consignment and the invoice or receipt in relation to the purchase of the product or raw log.

It's important to note here that these requirements will apply to everyone, regardless of whether the timber, the timber product or the raw log is certified or not.

The main difference in this step compared to the regulation is the removal of the requirement to gather evidence that the product or raw log has not been illegally logged.

It's important to highlight that importers and processors will still be required to consider this evidence, but this will now be part of the risk assessment step.

The amount of further information to be gathered during the risk assessment step will be dictated by the extent of consideration of risk factors that is required to arrive at a reasonable risk conclusion.

**[Slide 11: Streamlined due diligence pathways]**

**Madeleine Osborn:** It's at this next step, the assessing the illegal logging risk, that the due diligence requirements then branch into two separate pathways, one for certified and one for non-certified products.

These two pathways will replace the three existing risk assessment options in the current regulation, those being the Timber Legality Framework, the applicable Country or State Specific Guideline, and the Regulated Risk Factors method.

These pathways have been designed to implement the recommended reforms in the RIS that Keiran was referring to earlier and to minimise confusion and provide greater clarity on the due diligence requirements.

The pathway for assessing risk for certified products centres on confirming certification, while the pathway for non-certified products focuses on considering key illegal logging risk indicators.

And while there is no longer a specific CSG or SSG risk assessment method, these documents are still to be considered where relevant as part of the risk assessment step for non-certified products.

I'll now go through the two new pathways in more detail.

**[Slide 12: Certified pathway]**

**Madeleine Osborn:** So to the certified pathway. As with the regulation, certified products or raw logs are those that are certified under either FSC or PEFC standards.

While the Regulation refers to these standards as ‘Timber Legality Frameworks’, we understand that this term is quite confusing and have instead included the term ‘forest certification standard’ in the draft rules.

At this point, I'll just reiterate that even if the product or raw log is certified, regulated entities are required to gather the information listed in the earlier step as outlined in the previous slide.

After the information gathering step, importers and processors must then confirm that the product or raw log is certified by obtaining the relevant certification documentation and claim; and by verifying that the details are true and correct with reference to the online FSC and PEFC certification databases.

And just note here that we're talking closely with FSC and PEFC over the consultation period to ensure that we have got the process around verifying certified products right in the draft rules. And we'll update the rules accordingly, as well as ensuring that there's adequate guidance available on our website.

So, if the product or raw log is certified, a simplified risk assessment process can then be followed that requires consideration of the information gathered on the timber or product, the extent of illegal logging involving entities in the supply chain, and any other information that the importer or processor knows which may indicate that the timber was illegally logged.

Importers and processors are also required to consider the source, validity and reliability of the information used in the risk assessment.

On the second factor listed we've provided links on our website to resources that report on entities involvement in illegal logging, which can supplement basic online searches.

As is currently the case under the existing regulation, if the risk is identified as higher than low, the importer or processor must undertake risk mitigation measures.

It's important to note here that if you cannot verify that all the certificate details are correct, you can't continue with the certified pathway and conduct the simplified risk assessment through this pathway.

**[Slide 13: Non-certified pathway]**

**Madeleine Osborn:** And to non-certified. So where timber is not certified, a separate due diligence pathway applies.

As I mentioned earlier, the initial information gathering requirements are the same regardless of the certification status. But the risk assessment step is more comprehensive for non-certified products.

The draft rules set out various factors that importers and processes should consider as part of the risk assessment. Which are:

* The information gathered
* Any Country or State Specific Guideline that relate to the timber
* The extent of illegal logging involving entities in the supply chain
* The extent of illegal logging, in general, of the species or genus of the tree from which the timber is derived,
* The conservation status, if any, of the species or genus, including any CITES listing.
* The extent of illegal logging, in general, in the area or country of harvest and any other information that the importer or processor knows, which may indicate, the timber was illegally logged.

In addition, importers must also consider the three factors listed on the slide marked with an asterix, which are the extent of armed conflict in the area or country of harvest, the extent of corruption in that area or country, and the governance arrangements for forest management in that area or country.

As with the risk assessment for certified products, importers and processors must consider the source, validity and reliability of the information used in the risk assess.

These factors have been drawn from similar legislation in other jurisdictions as well as independent research and reports on illegal logging. The factors included in the draft rules have been identified as those that most strongly correlate with illegal logging and which have relevant public information and resources available.

And as with the certified pathway, if the risk is identified as higher than low, the importer or processor must undertake mitigation measures.

**[Slide 14: Risk mitigation]**

**Madeleine Osborn:** OK, so on to risk mitigation. As with the regulation, risk mitigation will still be required where the risk identified is greater than low. The draft rules also maintain that the risk mitigation process must be adequate and proportionate to the risk identified.

However, the draft rules remove the need to first undertake multiple risk assessments in some circumstances or what I like to refer to as ‘the going around in circles’ situation that exists in the current regulation.

For example, at the moment, if you use the Timber Legality Framework or the CSG method to assess risk and find that it is higher than low, the Regulation requires you to then undertake another risk assessment using the Regulated Risk Factors method before proceeding to risk mitigation.

We realise that this is ineffective and burdensome, so we've designed the draft rules to avoid the risk assessment roundabout as much as we do love roundabouts in Canberra.

The draft rules also include examples of what risk mitigation measures may include, such as gathering further information or conducting scientific testing, noting that this list is not exhaustive.

Following the risk mitigation process, importers and processes will need to identify and record the level of risk.

Next slide please.

**[Slide 15: Removing repeated due diligence]**

**Madeleine Osborn:** Further to these changes, the draft rules also include an exception, which applies to those repeatedly importing or processing identical products or raw logs via the same supply chain within a 12-month period.

As recommended in the RIS, this exception essentially creates a simplified due diligence pathway that removes the requirement to repeatedly undertake risk assessments and risk mitigation on the same thing in the same circumstances within a set time frame, regardless of the certification status.

The importer or processor must still gather certain information about the product or raw log, including:

* A description of the product or raw log, including the scientific and common name and species or genus.
* The country or area of harvest,
* the country of manufacture, importers only
* The suppliers details and
* A copy of any relevant chain of custody or forest management.

If all this information matches a previous import or consignment, and the importer or processor has conducted the full due diligence process in relation to that particular product in the previous 12 months, then the importer or processor is not required to conduct another risk.

Instead, they may rely on the previous risk assessment and risk mitigation.

**[Slide 16: Notice requirements]**

**Madeleine Osborn:** In addition to these due diligence changes, the Bill also includes a new requirement for both importers and processors to provide notice to the department when importing regulated timber products or processing domestically grown raw logs.

These provisions in the Bill note that the manner and form of these notices, as well as the timing, will be prescribed in the rules.

We anticipate that key due diligence information consistent with that listed in the information gathering requirements, such as the species or genus and harvest origin, would be required as part of the notice or e-declaration, and we intend to implement a new IT system to facilitate importers and processors to provide these notices.

However, this system is still being developed, and since it's not operational yet, we have not prescribed these details of the notice requirements in the rules at this time.

This means that importers and processors will not be required to provide these notices at this stage, and the requirement will not come into effect until the IT system is up and running.

As Keiran mentioned earlier, we intend to work with the regulated community closely on this once the system is ready before the requirements come into effect.

**[Slide 17: Rules consultation]**

**Madeleine Osborn:** So that brings my deep dive into the draft rules to an end.

Ohh sorry yes, we encourage you to visit the department’s Have your Say page to access the exposure draft of the rules as well as a fact sheet that provides an overview of the key changes that we've just unpacked and information on how to make a written submission.

The consultation process closes on Friday the 13th of September at 5:00 PM Australian Eastern Standard Time, so please make sure to provide your submissions by then if you would like to provide feedback.

We will then consider all the feedback received and make any changes to the draft rules where necessary and appropriate before submitting these to the Minister.

And finally, if you're not already subscribed to our illegal logging mailing list, please consider doing so at the website on the bottom of this slide, as this is how we send out updates and relevant information.

Thank you very much and I'll now hand back to Carlin.

**[Slide 18: Q&A]**

**Carlin Watt:** Thank you, Madeleine and Keiran for that presentation. Certainly a lot of detail and content to work through.

We will now open to questions specific to the rules. Questions can be submitted by selecting the Q&A tab in the top ribbon of your screen. I can see we have around 30 minutes remaining.

I will have a look and see what questions we have coming in.

First question from Andrew. Thank you, Andrew. Will licenced custom brokers complete community protection questions on import declarations, whether or not products are the product of illegally logging, the department has previously said that it will not proceed against such custom brokers if the Community protection question is completed incorrectly and will proceed against the importers. Will this remain the case and can DAFF advise on liabilities of custom brokers? I might throw that one to you Keiran.

**Keiran Andrusko:** Thank you, Carlin, and thank you, Andrew, for the question. So hopefully you can all see me or hear me. I'm assuming that's coming through, getting nods. OK. So essentially with this matter, we haven't actually prescribed anything regarding the community protection question in the rules, some of you might have noticed on reading those.

Essentially, that's turning off this requirement to provide this declaration each time and be liable for that. The reason we have done that is because of the notification requirement that Madeleine spoke to you a little bit earlier. Essentially, when that comes in, that will be the chief way of notifying the Department of imports, and this requirement on the community protection question, is becoming redundant. So essentially to answer your question, there's not going to be any liability for having or having not done that because we're not prescribing anything in the rules.

Hope that answers your question.

**Carlin Watt:** Thank you, Keiran. Next question, is it a requirement that information gathering and risk assessment be conducted for every invoice? For example, if you order, 24 shipments of the same product from the same supplier over a supply agreement period, is it not sufficient to complete the due diligence prior to the first shipment?

**Madeleine Osborn:** I might take that one, Carlin. So I guess that's the reason why we've included the repeated due diligence pathway in the draft rules. I imagine in that situation you would need to conduct the full risk full due diligence process once, and then as long as all the details, including the suppliers along the supply chain and the product remain the same, then you can rely on that previous risk assessment and risk mitigation process, within a 12 month period. So we have put the 12 month requirement on there so that it doesn't perpetuate, and lastly you do have to repeat it again after 12 months, but you should be able to rely on those previous due diligence activities within the 12 months, provided that everything remains the same.

Hopefully that's clarified that.

**Carlin Watt:** Thank you, Mads.

Will the rules be a disallowable instrument?

**Keiran Andrusko:** Thanks, Carlin. I'm happy to jump in and take that one.

The short answer to that is yes, the rules are just like the regulation they are disallowable. So as I mentioned earlier in the House of Parliament can by a majority vote within a set period after those being made, can disallow them, which means they will cease to have effect, or not come into effect if they haven't already.

As I mentioned, that did happen in 2018, but we're hoping that in consulting on these rules, so we can avoid that.

**Carlin Watt:** Thank you.

Another one here, when conducting a risk assessment, do we have to consider all listed items or do we select the ones relevant to our business?

**Madeleine Osborn:** I'm happy to take that one.

I imagine our expectation would be that they are all considered, even if it's just an initial consideration to determine whether or not it's relevant to their particular product or the area that the timber is coming from.

For example, things like armed conflict, if your timber is coming from a country where that is not occurring, then you at least need to make that initial consideration to determine that, but that's where that process would end and your consideration of that factor would end. So yes, I think it's safe to assume that you should consider all things but the extent of your consideration will vary depending on how relevant they are.

**Carlin Watt:** Thank you, Madeleine.

A question from Colin, having reached the end of the 12 month period of the due diligence, what does the department want the importer to obtain in support of ‘no change to products or supply chain’, is a letter from the supplier enough?

Keiran would you like?

**Keiran Andrusko:** Ah, thanks, Colin. Happy to take that.

Thanks for the question. So after 12 months, there is a requirement if you have previously undertaken due diligence and then not have to do it in that intervening period to undertake it again. We suspect that in this case that you've outlined, you would be gathering the same information and considering the same factors, unless the legislation has changed, so hopefully that's a straightforward process. We do want to keep it reasonable and so 12 months is what we arrived at because essentially things can change and supply chains and also some of the other factors you have to consider in terms of global events etcetera. So going and revisiting that once every 12 months we think that a reasonable compromise having moved from where we were, which was every import or active processing, if you were to read the laws very strictly.

So we're hoping that this is a happy medium. And this is what we're starting.

**Carlin Watt:** Thank you. Question from JP.

As per the new rules, entities are not expected to do fibre testing or DNA testing as part of their due diligence, it will be a tool which will be used by the department to validate due diligence. Please confirm.

**Cassandra Price:** Thanks very much. I can jump in and take that one.

Yeah, absolutely. I can confirm that that is the case. And entities are not required under our laws or new laws to conduct their own fibre testing or any sort of timber testing. That's not to say you can't if you wish to understand your supply chain or to verify anything yourselves.

But our laws are focused on the due diligence process and if you have or haven't met your due diligence requirements and we'll be using the timber testing as a tool for that.

Thank you.

**Carlin Watt:** Thank you, Cassandra.

Can we confirm the currency of the $1000 in the exemption, is it the value in Australian dollars or in the currency we are invoiced in which is mostly U.S. dollars? Keiran, would you like to take that one?

**Keiran Andrusko:** Sure thing, it is Australian dollars as it relates, I think to customs requirements as well around declarations. So yeah, there is a need there to basically convert currencies and make sure you're under over that and work out what your obligations are.

**Carlin Watt:** OK. Thank you.

When conducting repeated due diligence with the same supplier is a new risk assessment required if the timber species differs from the one assessed in the initial risk assessment and I just put that one to you, Madeleine.

**Madeleine Osborn:** Yeah. Thank you, Carlin. Yes, I imagine that it would be required to be done again because it is a pretty crucial detail that has changed. So, I guess the repeated due diligence pathway has been set up for situations where everything stays the same.

**Carlin Watt:** Thank you. Next question. Why has deforestation not been included in the updates? I’ll throw that one to you Keiran.

**Keiran Andrusko:** The legislation really focuses on timber and illegal logging and that was the mandate we were given to review these laws over the last few years starting with the that 2018 statutory review, we didn’t go into broader questions around extending it to products beyond timber, nor into further matters.

I will note that trying to go beyond illegal logging and into matters of sustainability where it's not as black and white as to what's occurred in other countries is quite challenging. So we've tried to keep these laws and make them workable within the current scope, realising that we needed to make some changes to make them operable in a sense of the compliance burden and but also ensuring they uphold their objectives, so that's been the focus for the reviews for the last few years and that will continue to be the focus on implementing these.

**Carlin Watt:** Thank you.

Following on from Andrew's previous question about the Community protection question, we have, will there be any change to the broker Community protection question under the new rules?

Madeleine.

**Madeleine Osborn:** Yeah. Thanks, Carlin. So just to clarify, as Keiran mentioned earlier, the community protection question won't be covered in the new rules. So it essentially doesn't operationalize those requirements. So the question will be removed from needing to be answered if that makes sense, you will no longer need to answer that question.

Hopefully that clarifies.

**Keiran Andrusko:** I can just jump in with one key detail there, so you will see that question continue to come up in the Integrated Cargo System (ICS). When you go to import there won't be a legal requirement to answer it, you won't be legally liable for answering that incorrectly and it won't be until we get all our systems are in place and the new notification system that we can address that and make the necessary updates to the ICS. We're turning it off, but then you won't see that reflected for a little while. So we will put guidance out there to make sure everyone's aware of how this operates in the future. It's just part of the transition of needing to move to different systems and requirements.

**Carlin Watt:** Thank you.

For repeat imports, do we have to gather information for each import, or can a supplier contract or email from the supplier stating nothing changed suffice?

Madeleine.

**Madeleine Osborn:** Thanks, Carlin. Look, we're yet to really assess what will be required under the repeat import pathway, but I imagine if a supplier contract and an email is what you consider to be sufficient evidence that nothing has changed…perhaps it would be worth looking into this yourself.

Keiran, I'm not sure if you want to add to that.

**Keiran Andrusko:** Yeah. So it's a good question. The laws do have a positive obligation to after 12 months, well in every instance, before your previous due diligence assessment expires, is to gather that information every time and make sure it looks like it's matching. So that's the really basic information about the product, where it was harvested, where it was manufactured, and who the supplier is. So you do need to gather that every time that's not going to change, because that's the key to make sure it matches on every occasion. And then like just a simple email saying nothing's changed would not be sufficient. You need to make sure that you yourself are doing that check. It is pretty simple, it should just be a few key details match. Then you get to the end of 12 months and you need to do due diligence risk assessment again.

That's where you should be considering the same factors, so you hope you got the same information you collected last time. Make sure nothing's out of date. And then reconsider that and hopefully that's a straightforward process.

**Carlin Watt:** Thank you.

OK. Is it the case that after completing a due diligence check and risk mitigation on a supplier, any orders placed within a 12 month period are considered compliant provided that the supplier confirms that the species, certification, harvest location and place of manufacturer remain unchanged, that all information matches the due diligence check conducted within those 12 months. What type of confirmation is required if this is the scenario? Again, is an email confirmation from a supplier sufficient for each new order?

I'll pass that one to you, Keiran, following on.

**Keiran Andrusko:** Thanks, Carlin. I'm just going to reread that to make sure, I've completely understood the question because they are asking to make sure that their understanding is correct.

So after completing due diligence check and risk mitigation on a supplier, any orders placed within a 12 month period are considered compliant provided that the supplier confirms that the species, certification, harvest location and place of manufacturer remain unchanged, that all information matches the due diligence check conducted within those 12 months…. is an email confirmation from a supplier sufficient.

So I think I've just answered that question in part, but I'll go over it again. So yeah, you will have to basically ensure each time all of those details match around the product description, which includes the harvest location, who the supplier is, if it's certified, ensuring you've got that certification record, the place of manufacturer as well, and there's a couple of others that were listed on that slide that we will be making available. Essentially, you gather all that, and it could be all in one email, however you gather it from the supplier, we would expect, if for certification, you're also independently gathering that from the FSC or PEFC database.

So essentially, you've got all that in an email and that checks, that's OK you’ve basically done your job and then you wait till the end of 12 months and you have to do that process like we spoke about again. So I realise this is all new for everyone and we will have to repeat this a few times, but we will be publishing this information and putting out more updates with all of this to make it clearer, but yeah, broadly, what you're putting down there, is largely correct.

**Carlin Watt:** Thank you, Keiran.

A question from Simon. Would modular decking made of recycled timber be caught under these laws? Or would they be exempt? Similar, how would the rules apply to composite timbers as these can be made of many different species and very hard to ascertain their supply chains and sources. Composite timbers are coming more and more relevant in imports.

I might throw that one to you, Madeleine.

**Madeleine Osborn:** Thanks Carlin.

I’ll just read that one… I think the modular timber decking made of recycled timber. I would imagine that that would fall into the recycled timber exclusion, so I would imagine that that would not be caught by the laws. Keiran, I might throw to you to talk about composite products.

**Keiran Andrusko:** Ah, thanks. Yeah. Thanks, Simon for another good question. So we do realise that composite products are some of the most difficult products to undertake due diligence on and probably the most demanding as well. One of the key changes in the laws that Madeleine talked about was that we're no longer requiring you to basically obtain as much information as reasonably practicable in relation to illegal logging on every component of the product upfront, because we realise that is really difficult, but we are requiring you to consider all of those matters outlined at the next step and basically gather enough information on those kind of factors at that stage with what you know to make a reasonable risk assessment.

Obviously for products where you know less about every single component and what they are, you might have to end up concluding their high risk because you've done what you can in terms of gathering information and considering those factors, there's only so much you can realistically find out.

The key thing about our laws, is that at that stage you need to undertake risk mitigation that's adequate and proportionate. You've got another risk factors there. You can import the product still, you will have to note that it is maybe medium or high risk because you have been able to find out much and then you're liable of course for anything that could be find out later if it as illegally logged and wasn't a reasonable mistake of fact, etcetera.

So this is how we're handling it, basically, the laws trying to build some more flexibility in, where if you come to a reasonable risk conclusion, consider those factors and you can show us that you've done that, that's meeting your due diligence requirements and then the questions of liability for importers are really in your hands in terms of ‘OK, it's a complex product, there's only so much you can find out about it, it might be high risk. What do you do then?’ Our laws aren't strictly ‘No, you can't bring it into the country’ So realise again, this is complicated stuff. There's quite a few parts that have changed, but this is where I've tried to bring some more flexibility to the laws.

**Carlin Watt:** Thank you, Keiran.

When gathering information, do we need to gather both common name and scientific name or one of those suffice? I'll throw that one to you, Madeleine.

**Madeleine Osborn:** Thanks. Great question. We found that common name can be quite misleading. There are lots of common names for the same thing across the world. So my suggestion for that scenario or for that question would be if you can get the scientific name, that would be ideal.

So yeah, I would say perhaps both the common name and the scientific name, we have actually changed that I believe in the rules from ‘OR’ to ‘AND’. So please, please provide both to avoid confusion.

**Carlin Watt:** Thank you, Madeleine.

I'm Just curious, is there any effect of EDUR to the AILPA say in the requirement of geolocation.

Madeleine would you like that one?

**Madeleine Osborn:** Yeah. Thank you very much. Obviously EUDR is a hot topic at the moment. Just to clarify, as we mentioned earlier, there's no deforestation requirements in the illegal logging laws, and we're also not requiring geolocation data in the illegal logging laws, as the EUDR does.

In terms of flow on effects, I can only speculate, but I imagine that if people are required under EUDR to gather geo-location data, then it will make their due diligence activities a lot easier under our laws because they will know exactly where their timber has come from. So I guess that's my speculation, but we'll have to wait and see when the laws come into effect later this year.

**Carlin Watt:** Thank you, Madeline. OK, is the exemption value consignment, Less than $1000. Ohh sorry. More than $1000. Or should it be less than $1000?

I'll just repeat that one.

**Keiran Andrusko:** Yeah, I can. I can take that one.

**Carlin Watt:** Thanks Keiran.

**Keiran Andrusko:** I'm not sure how it's being presented in this slide, so whether the intent is if the value of the consignment is more than $1000, you have to undertake due diligence on it. If it's less than $1000, that's when the exemption applies. So apologies if the slides have confused anyone on that matter. It is essentially the same as it was in the regulation.

**Carlin Watt:** Thank you. Our question from Steven, how high level will the due diligence system need to be, i.e. what level of process detail will be needed? I might throw that one to you Karen, that's similar to some of the other questions you've addressed.

**Keiran Andrusko:** Oh, uh, thanks, Steven. So I can't answer that one probably with the detail that you would like, I’d have to refer that to our compliance colleagues. Essentially that requirement hasn't changed, so it won't be different to the existing requirements. And of course, there will be changes now to the due diligence process from the from the rules, which will need to be reflected and updated in due diligence systems. So that's really for compliance to work through with on. We can certainly try and provide some more details as we work with them to basically nut out this new process and how it looks and what it means and what we might expect. So I would suggest that's where we can have some more engagement and to really bed down what that is, knowing that everyone will have to update their due diligence systems.

**Carlin Watt:** Thank you, Keiran. I'm conscious of time, but we'll work through just a few more questions. One cycle, most FSC certifications live longer than 12 months. So can we just recheck for the validity and products stated.

Madeleine?

**Madeleine Osborn:** Thanks Michael for your question. Yes, you would need to confirm that it still remains valid and the and covers the product stated and that FSC still applies in that particular place as well. We've seen lots of changes around that in recent years, so it would be a requirement to check that everything is still valid and correct.

**Carlin Watt**: Thank you, Madeleine. Question from Annan. In what format is the information gathering to supply on imports, a supplier questionnaire or harvest?

**Keiran Andrusko:** I can jump in there. So the information gathering, it's really in your hands in terms of what format it takes. We can certainly continue to talk to our importers and processors as these laws or changes come into effect to make sure that you understand the requirements. But there is written into the laws no strict requirement on how you gather information. Like if you have or want to have a standard template that you send out the suppliers for what you need, that is certainly something to be undertaken, but it's really over to you.

As we move through implementing these changes, though if there is something useful there that we can provide in terms of something that’s standardised to start with – I know we’ve shared guidance materials in the past to that effect – It's something we can look at providing if that's helpful.

**Carlin Watt:** Thank you, Keiran. And I think we've got time for one last question here and this one is probably a good one to finish on…

Regarding the repeated basic product check: species, harvest location and certification, for example on supplies for each order, is it mandatory to begin this now or will it be required starting from April 2025?

I might send that one to you, Keiran.

**Keiran Andrusko:** So that requirement won't enter into force until the Bill has passed Parliament, and we've put in place a transition from the current regulation to the new rules. So as I said earlier, we expect that to be sometime between later this year and before April 2025 next year. And it is somewhere that we want to allow quite a sufficient transition period to make sure that everyone has enough time to adjust to the new requirements. So yeah, that requirement won't actually be operative until we bring in the new rules and they're effective and that's at a date to be set that's a little bit in the hands of Parliament. We need them to pass the Bill first, before we can actually then set out our transition period to the new requirements that it is something we tend to leave, you know, a sufficient period of time so everyone's aware we can work through some of these issues that have come up in terms of where we might need to provide more guidance and then ensure that once we come to kick off that it's in effect, and everyone's well aware of and prepared for what the expectations are. So sorry, we can't be more on specific updates, but it's out of our hands. It's with our parliamentarians.

**Carlin Watt:** Thank you, Keiran.

We're coming up to the end of time now, so I might take this chance to thank our presenters today, Madeleine, Keiran and Cassandra, and to everyone who's participated by asking questions and of course, to the rest of our team working in the background today to make the webinar happen. There's definitely been some key themes and areas of interest raised for us to consider in taking this work forward. So thank you so much.

As mentioned, a recording of this webinar will be made available on our Have your Say page and we'll drop a link to that website in the sidebar for you. And finally, we encourage everyone attending today to submit a written submission via they have your say website by the 13th of September. Thank you again for joining us today and we'll close the webinar here. Take care.

[Webinar ends]

**Acknowledgement of Country**

We acknowledge the Traditional Custodians of Australia and their continuing connection to land and sea, waters, environment and community. We pay our respects to the Traditional Custodians of the lands we live and work on, their culture, and their Elders past and present.

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